UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 7

IN THE MATTER OF: Huster Road Substation Groundwater Site St. Charles, Missouri Ameren Missouri Respondent Proceeding Under Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9604, 9607 and 9622	Docket No. CERCLA-07-2017-0129

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMEDIAL INVESTIGATION / FEASIBILITY STUDY

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APPENDICES

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into by the United States Environmental Protection Agency ("EPA"), the Missouri Department of Natural Resources ("MDNR"), and Union Electric Company d/b/a Ameren Missouri ("Respondent"). This Settlement Agreement provides for the performance and preparation of a Remedial Investigation and Feasibility Study ("RI/FS") by Respondent at or in connection with the Huster Road Substation Site ("Site") located on Huster Road in St. Charles, Missouri where Respondent owns and operates an electrical transmission and distribution substation. EPA designated the Site as Operable Unit #4 ("OU4") of the Findett/Hayford Bridge Road Site, because of common contaminants in groundwater in close proximity to Operable Unit #3 of the Findett/Hayford Bridge Road Site (also known as "Findett Corporation Site"). This Settlement Agreement also concerns the reimbursement of Future Response Costs incurred by EPA in connection with this Settlement Agreement.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to Regional Administrators by EPA Delegation Nos. 14-14-C (Administrative Actions Through Consent Orders, Jan. 18, 2017) and 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, January 18, 2017). These authorities were further re-delegated by the Regional Administrator of EPA Region 7 to the Director, Superfund Division by R7-14-14C and R7-14-14D, January 17, 2017.

3. MDNR enters into this Settlement Agreement pursuant to Section 260.530 RSMo.

4. EPA, MDNR, and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement Agreement do not constitute an admission of any liability with respect to the Site or Operable Units 1-3 of the Findett/Hayford Bridge Road Groundwater Site. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Section V (Findings of Fact) and Section VI (Conclusions of Law and Determinations) of this Settlement Agreement. Respondent agrees to comply with and be bound by the terms of this Settlement Agreement and further agrees that it will not contest the basis or validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

5. This Settlement Agreement is binding upon EPA, MDNR, and upon Respondent and its successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Settlement Agreement.

6. Respondent shall provide a copy of this Settlement Agreement to each contractor hired to perform the Work required by this Settlement Agreement and to each person or entity representing Respondent with respect to the Site or Work, and shall condition all contracts entered into under this Settlement Agreement upon performance of the Work in conformity with the terms of this Settlement Agreement. Respondent or its contractors shall provide written notice of this Settlement Agreement to all subcontractors hired to perform any portion of the Work required by this Settlement Agreement. Respondent shall nonetheless be responsible for ensuring that its contractors and subcontractors perform the Work in accordance with the terms of this Settlement Agreement.

7. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind Respondent to this Settlement Agreement.

III. STATEMENT OF PURPOSE

8. In entering into this Settlement Agreement, the objectives of EPA, MDNR, and Respondent are:

a. To determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a Remedial Investigation as more specifically set forth in the Statement of Work ("SOW") attached as Appendix B to this Settlement Agreement;

b. To identify and evaluate remedial alternatives to prevent, mitigate, or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a Feasibility Study as more specifically set forth in the **SOW**; and

c. Reimburse EPA for Future Response Costs incurred by EPA in connection with this Settlement Agreement.

IV. DEFINITIONS

9. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or its attached appendices, the following definitions shall apply:

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

"Day" or "day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business of the next working day.

"Effective Date" shall mean the effective date of this Settlement Agreement as provided in Section XXXIV (Effective Date).

"Engineering Controls" shall mean constructed containment barriers or systems that control one or more of the following: downward migration, infiltration, or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.

"EPA" shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

"EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. §9507.

"Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports, or other deliverables submitted pursuant to this Settlement Agreement, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant **to** Section XII (Property Requirements) (including, but not limited to, the cost of attorney time and any monies paid to secure or enforce access, including, but not limited to, the amount of just compensation), Section XVI (Emergency Response and Notification of Releases), **Paragraph 87 (Work Takeover)**, Section XVIII (Dispute Resolution), and all litigation costs incurred in connection with this Settlement Agreement. Future Response Costs shall also include Agency for Toxic Substances and Disease Registry ("ATSDR") costs incurred in connection with the Site. Future Response Costs shall also include all Interim Response Costs.

"Hayford Bridge Road Groundwater Site" (also known as "Findett Corp. Site") shall mean the Superfund site located in the city of St. Charles, St. Charles County, Missouri and depicted generally as OU01 and OU03 on the map attached as Appendix A and includes contaminated soils at the 8 Governor Drive property and contaminated groundwater emanating from that property.

"Huster Road Substation" (also known as the "Site") shall mean the property owned by Ameren located on Huster Road in St. Charles County, Missouri. EPA recently designated the Site as OU4 of the Findett/Hayford Bridge Road Site, in that that the Site is located approximately 3000 feet north of Elm Road and 3000 feet northeast of Governor Drive, in close proximity to the contaminated groundwater of OU3 of the Hayford Bridge Road Groundwater Site. The Site is depicted as OU4 on the map attached as Appendix A. The Site does not include Operable Units 1-3 of the Findett/Hayford Bridge Road Groundwater Site.

"Institutional Controls" or "ICs" shall mean proprietary controls and State or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices that: A) limit land, water, or other resource use to minimize the potential for human

exposure to Waste Material at or in connection with the Site; B) limit land, water, or other resource use to implement, ensure non-interference with, or ensure the protectiveness of the response action pursuant to this Settlement Agreement; and/or C) provide information intended to modify or guide human behavior at or in connection with the Site.

"Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at *https://www.epa.gov/superfund/superfund-interest-rates*.

"Interim Response Costs" shall mean all costs, including but not limited to direct and indirect costs: A) paid by EPA in connection with the Site between 9/26/2016 and the Effective Date; or B) incurred prior to the Effective Date, but paid after that date.

"MDNR" shall mean the Missouri Department of Natural Resources and its successor departments, agencies, or instrumentalities.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

"Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral or an upper or lower case letter.

"Party" or "Parties" shall mean EPA, MDNR, or Respondent or EPA, MDNR, and Respondent.

"Proprietary Controls" shall mean easements or covenants running with the land that: A) limit land, water, or other resource use and/or provide access rights; and B) are created pursuant common law or statutory law by an instrument that is recorded in the appropriate land records office.

"RCRA" shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

"Respondent" shall mean Union Electric Company d/b/a Ameren Missouri.

"Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

"Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study and all appendices attached hereto (listed in Section XXXII (Integration/Appendices) and all documents incorporated by reference into this Settlement Agreement. In the event of conflict between this Settlement Agreement and any Appendix, this Settlement Agreement shall control.

"Site" shall mean the Huster Road Substation, which EPA has designated as OU4 because of common contaminants and close proximity to the contaminated groundwater of OU3 of the Hayford Bridge Road Superfund Site Superfund Site, located in St. Charles, St. Charles County, Missouri and depicted generally on the map attached as Appendix A. The Site does not include OU1, OU2 or OU3 of the Findett/Hayford Bridge Road Groundwater Site.

"The State" shall mean the State of Missouri and its instrumentalities, agencies, and commissions, including the Missouri Department of Natural Resources.

"Statement of Work" or "SOW" shall mean the document describing the activities Respondent must perform to develop the RI/FS for the Site, as set forth in Appendix B to this Settlement Agreement. The Statement of Work is incorporated into this Settlement Agreement and is an enforceable part of this Settlement Agreement as are any modifications made thereto in accordance with this Settlement Agreement.

"Waste Material" shall mean (a) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (c) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

"Work" shall mean all activities and obligations Respondent is required to perform under this Settlement Agreement, except those required by Section XIV (Record Retention).

V. FINDINGS OF FACT

10. Respondent is the owner and operator of the Ameren Missouri substation property with an address of 3760 Huster Road, St. Charles, Missouri as depicted in Appendix A. The Site is an active substation and surrounded by an earthen berm to protect against flood events. The Site was originally developed in 1963 with subsequent expansions. An approximately 12-foot high floodwall and gate were added in 1994.

11. The Site property is within the Elm Point Wellfield, and adjacent to City Wells 4 and 5. Other wells, specifically City Wells 6, 7, and the radial well (Well 9), are located north of the Site. The City Wells could be potentially threatened with contamination in the absence of groundwater treatment and/or operation of a groundwater containment system installed at the Site by Respondent.

12. During maintenance of electrical equipment at the substation, Respondent used solvents which contained, among other things, tetrachloroethylene ("PCE") and mineral spirits.

13. Between October and December 2011, groundwater samples using direct push technology were taken from 84 locations in the Elm Point Wellfield including four samples on and near the Ameren facility. Results of these samples indicated the presence of cis-1,2 dichloroethene ("DCE") and vinyl chloride ("VC") near the northwest corner of the Ameren facility and downgradient of the facility in an area denominated as the "Northern Plume".

14. In April 2012, Respondent conducted preliminary soil sampling on its facility property. Analytical results indicated the presence of VC, cis-1,2 DCE, trans 1,2- dichloroethene ("1,2 DCE"), 1,1 DCE, trichoroethene ("TCE") and PCE in surface soils and soil borings. Specifically, Respondent reported surface soil and soil boring concentrations of PCE as high as 2000 parts per billion ("ppb") at the surface, and cis-1,2 DCE concentrations as high as 1080 ppb at 15 feet below ground surface. Results from these two surface soil and soil boring locations indicated past contamination levels from VOCs above EPA Risk Screening Levels ("RSLs") for soil contaminants affecting drinking water supplies.

15. Based on the investigations referenced in **Paragraphs 13 and 14** above, EPA determined that a removal action was necessary to prevent further migration of the impacted groundwater in order to provide an additional margin of safety for the city of St. Charles public water supply system. On June 25, 2012, EPA issued an Action Memorandum, which identified the threat posed to the Elm Point Wellfield by releases from OU1 and from the Ameren property and the need for environmental response actions.

16. Initial field activities conducted by Respondent occurred from April 2012 through November 2012. Based on the results of that investigation, a Settlement Agreement and Administrative Order on Consent for a Groundwater Containment System and Integrated Site Evaluation ("2012 AOC"), Docket No. CERCLA-07-2012-0026, was issued on December 28, 2012.

17. The 2012 AOC required:

a. Soil and groundwater sampling at the Ameren Missouri substation;

b. Construction and operation of a Groundwater Containment System ("GCS") that would prevent groundwater from migrating away from the Site;

c. Removal and disposal or treatment of contaminated soil from the substation;

d. Evaluation of potential future response actions;

e. Operation of the GCS until source area soil cleanup at the Site achieved Missouri Risk Based Corrective Action Standards; and

f. Address groundwater beneath the substation and within the GCS containment zone until the groundwater has reached Safe Drinking Water Act ("SDWA") maximum contaminant levels ("MCLs") for designated chemicals of concern for six consecutive calendar quarters.

18. The GCS was installed in 2013 and became operational in April 2014. The Integrated Site Evaluation (ISE) was finalized in February 2013. Supplemental site investigation data was submitted in March 2013.

19. Additional actions, not required by the 2012 AOC, have been conducted by Ameren to facilitate the clean-up of the soil and groundwater on and downgradient of the Huster

Road Substation. Those actions have resulted in improved water quality such that groundwater within the Northern Plume complies with federal drinking water standards. On-Site treatment of groundwater and soils have reduced contaminant concentration levels such that the remaining source area has been narrowed to the soils around electrical equipment labeled "Transformer #2". Ameren's additional actions included:

a. On-site Pilot Study:

1) In-Situ Chemical Oxidation (ISCO) and Bio-Augmentation (April, 2014 – May, 2014);

2) Sodium permanganate added to the source area soil (April, 2015); and

3) Bio-Augmentation of the source area soil (October, 2016).

b. Off-site Pilot Study:

1) Zero Valent Iron (ZVI) permeable wall installation (November, 2014); and

2) Sodium persulfate injections in groundwater (December 2014 – April, 2015)

c. Monthly and quarterly sampling of monitoring wells and city of St. Charles drinking water wells.

None of the City Well sampling performed by Respondent has detected PCE, TCE, DCE or vinyl chloride at concentration levels at or above EPA designated maximum contaminant levels ("MCLs"), and there have been no detections of any amount of those substances in any City Well since February of 2016. In addition, sampling of finished water from the St. Charles municipal public water supply system has not identified any PCE, TCE, DCE or vinyl chloride. However, concentration levels of some VOCs at a few locations within the groundwater on the Ameren substation exceed MCLs.

20. Exposure to cis-1,2-DCE at high doses may result in kidney or liver toxicity in humans. VC is a known human carcinogen that may cause a rare cancer of the liver. TCE is associated with nervous system effects, liver and lung damage, abnormal heartbeat, coma, and possibly death. PCE is associated with irritation of the upper respiratory tract and eyes, kidney dysfunction, and other neurological effects, such as reversible mood and behavioral changes, impairment of coordination, dizziness, headache, sleepiness, and unconsciousness.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

21. Based on the Findings of Fact set forth above, and the administrative record, EPA has determined that:

a. The Huster Road Substation is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. The conditions described in Section V (Findings of Fact) above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

d. Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

e. Respondent is a responsible party under Sections 107(a) of CERCLA, 42 U.S.C. § 9607(a), for soil and groundwater contamination associated with the Site, but based upon current information, is not a responsible party for OU1, OU2, and OU3 of the Findett/Hayford Bridge Road Groundwater Site.

f. The actions required by this Settlement Agreement are necessary to protect the public health, welfare, or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

g. EPA has determined that Respondent is qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondent complies with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT AND ORDER

22. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the administrative record, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

23. Selection of Contractors, Personnel. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within thirty (30) days of the Effective Date, and before the Work described in the SOW begins, Respondent shall notify EPA and MDNR in writing of the names, titles, contact information and qualifications of the personnel, including contractors, subcontractors, consultants, and laboratories to be retained to conduct the Work. If, after commencement of Work, Respondent retains additional contractors or subcontractors, Respondent shall notify EPA and MDNR in

writing of the names, titles, contact information, and qualifications of such contractors or subcontractors retained to perform the Work at least ten (10) days prior to commencement of Work by such additional contractors or subcontractors. EPA retains the right, in consultation with MDNR, at any time, to disapprove of any or all of the contractors and/or subcontractors retained by Respondent. If EPA disapproves of a selected contractor or subcontractor, Respondent shall propose a different contractor or subcontractor and shall notify EPA and MDNR in writing of the proposed contractor's or subcontractor's name, title, contact information, and qualifications within thirty (30) days of Respondent's receipt of EPA's written disapproval.

24. With respect to any proposed contractor, Respondent shall demonstrate that the proposed contractor has a quality assurance system that complies with ASQ/ANSI E4:2014, "Quality management systems for environmental information and technology programs - Requirements with guidance for use" (American Society for Quality, February 2014), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002, March 2001, reissued May 2006), or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's and MDNR's review for verification based on objective assessment criteria (e.g., experience, capacity, technical expertise) and that they do not have a conflict of interest with respect to the project.

25. Within fourteen (14) days after the Effective Date, Respondent shall designate a Project Coordinator who shall be responsible for administration of the Work required by this Settlement Agreement and shall submit to EPA and MDNR the proposed designated Project Coordinator's name, address, telephone number, email address, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA, after consultation with MDNR, retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA and MDNR of that person's name, address, contact information, and qualifications within fourteen (14) days following receipt of EPA's written disapproval. Respondent shall have the right to change its Project Coordinator, subject to EPA's right of disapproval. Respondent shall notify EPA and MDNR fourteen (14) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by written notification. Receipt by Respondent's Project Coordinator of any notice or communication from EPA for any matter relating to this Settlement Agreement shall constitute receipt by Respondent.

26. EPA has designated Clint Sperry of the Remedial Branch, Superfund Division, EPA Region 7, as its Remedial Project Manager ("RPM") for the Site. MDNR has designated Candice McGhee as its Project Manager. Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to EPA's RPM at the U.S. Environmental Protection Agency Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, and to MDNR's Project Manager at Missouri Department of Natural Resources, Hazardous Waste Program, P.O. Box 176, Jefferson City, Missouri 65102. EPA or MDNR will notify Respondent in writing of any change of its designated RPM or Project Manager. Communications between Respondent and EPA and MDNR, and all documents

concerning the Work performed pursuant to this Settlement agreement, unless otherwise specified herein, shall be directed to the EPA RPM and MDNR Project Manager, in accordance with **Paragraph 30 below.**

27. EPA's RPM shall be responsible for overseeing Respondent's implementation of this Settlement Agreement. EPA's RPM shall have the authority lawfully vested in an RPM and On-Scene Coordinator (OSC) by the NCP. EPA's RPM shall have the authority, consistent with the NCP, to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other response action at the Site when s/he determines that conditions at the Site constitute an emergency situation or may present a threat to public health or welfare or the environment. Absence of EPA's RPM from the Site shall not be cause for stoppage of work unless specifically directed by EPA's RPM.

IX. WORK TO BE PERFORMED

28. For any regulation or guidance referenced in this Settlement Agreement, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Respondent receives notification from EPA of the modification, amendment, or replacement.

29. Respondent shall conduct the RI/FS and prepare all plans in accordance with the provisions of this Settlement Agreement, the attached SOW, CERCLA, the NCP, and EPA guidance, including, but not limited to, the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" ("RI/FS Guidance") (OSWER Directive # 9355.3-01, October 1988), available at *https://semspub.epa.gov/src/document/11/128301*, "Guidance for Data Usability in Risk Assessment (Part A), Final" (OSWER Directive #9285.7-09A, PB 92-963356 (April 1992), available at *http://semspub.epa.gov/src/document/11/156756*, and guidance referenced therein, and guidance referenced in the SOW. The Remedial Investigation ("RI") shall consist of collecting data to characterize Site conditions, determining the nature and extent of contamination at or from the Site, assessing risk to human health and the environment, and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Feasibility Study ("FS") shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate, or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site. The alternatives evaluated in the FS must include, but shall not be limited to, the range of alternatives described in the NCP, 40 C.F.R. §300.430(e), and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondent shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e).

30. All written documents prepared by Respondent pursuant to this Settlement Agreement shall be submitted by Respondent in accordance with Section X (Submission and Approval of Deliverables). With the exception of progress reports and health and safety plans, all such submittals will be reviewed and approved by EPA in accordance with Section X

(Submission and Approval of Deliverables). Respondent shall implement all EPA approved, conditionally-approved, or modified deliverables.

31. Upon receipt of the FS Report, EPA in consultation with MDNR will evaluate, as necessary, the estimates of any risk to human health and the environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the cost, implementability, and long-term effectiveness of any proposed Institutional Controls for that alternative.

32. Modification of the RI/FS Work Plan.

a. If at any time during the RI/FS process, Respondent identifies a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to EPA's RPM and MDNR's Project Coordinator within thirty (30) days after identification. EPA in its discretion, after consultation with MDNR, will determine whether the additional data will be collected by Respondent and whether it will be incorporated into deliverables.

b. In the event of unanticipated or changed material circumstances at the Site, Respondent shall notify EPA's RPM and MDNR's Project Coordinator by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that EPA, after consultation with MDNR, determines that the unanticipated or changed circumstances warrant changes in the RI/FS Work Plan, EPA shall modify or amend the RI/FS Work Plan in writing accordingly or direct Respondent to modify and submit the modified RI/FS Work Plan to EPA for approval. Respondents shall implement the RI/FS Work Plan as modified or amended.

c. EPA, after consultation with MDNR, may determine that in addition to tasks defined in the initially approved RI/FS Work Plan, other additional Work may be necessary to accomplish the objectives of the RI/FS. Respondent shall perform these response actions in addition to those required by the initially approved RI/FS Work Plan, including any approved modifications, if EPA, after consultation with MDNR, determines that such actions are necessary for a complete RI/FS.

d. Respondent shall confirm its willingness to perform the additional Work in writing to EPA and MDNR within seven (7) days after receipt of the written EPA request. If Respondent objects to any modification determined by EPA to be necessary pursuant to this Paragraph, Respondent may seek dispute resolution pursuant to Section XVIII (Dispute Resolution). The SOW and/or RI/FS Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondent shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI/FS Work Plan or written RI/FS Work Plan supplement. EPA reserves the right to conduct the Work itself, to seek reimbursement from Respondent for the costs incurred in performing the Work, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit EPA's or MDNR's authority to require performance of further response actions at the Site.

33. Off-Site Shipments.

a. Respondent may ship hazardous substances, pollutants and contaminants from the Site to an off-Site facility only if it complies with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent will be deemed to be in compliance with CERCLA Section 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if Respondent obtains a prior determination from EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b).

b. Respondent may ship Waste Material from the Site to an out-of-state waste management facility only if, prior to any shipment, Respondent provides written notice to the appropriate state environmental official in the receiving facility's state and to EPA and MDNR. This written notice requirement shall not apply to any off-Site shipments when the total quantity of all such shipments will not exceed ten cubic yards. The written notice must include the following information, if available:

(1) The name and location of the receiving facility;

(2) The type and quantity of Waste Material to be shipped;

(3) The schedule for the shipment; and

(4) The method of transportation.

Respondent shall also notify the state environmental official referenced above and EPA and MDNR of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Respondent shall provide the written notice after the award of the contract for the RI/FS and before the Waste Material is shipped.

c. Respondent may ship Investigation Derived Waste (IDW) from the Site to an off-Site facility only if it complies with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), 40 C.F.R. § 300.440, EPA's "Guide to Management of Investigation Derived Waste," OSWER 9345.3-03FS (Jan. 1992), and any IDW-specific requirements contained in the SOW. Wastes shipped off-Site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 C.F.R. § 261.4(e) shipped off-Site for treatability studies, are not subject to 40 C.F.R. § 300.440.

34. Periodic Progress Reports. In addition to the deliverables set forth in this Settlement Agreement, Respondent shall submit periodic progress reports (initially, quarterly) to EPA and MDNR by the tenth (10^{th}) day after the end of the reporting period. At a minimum, with respect to the preceding reporting period, each progress reports shall:

a. Describe the actions that have been taken to comply with this Settlement Agreement;

b. Include all results of sampling and tests and all other data received by Respondent;

c. Describe Work planned for the next two reporting periods with schedules relating such Work to the overall project schedule for RI/FS completion; and

d. Describe all problems encountered in complying with the requirements of this Settlement Agreement and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

X. SUBMISSION AND APPROVAL OF DELIVERABLES

35. Submission of Deliverables

a. General Requirements for Deliverables

(1) Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to EPA and MDNR at:

Clint Sperry, RPM
U.S. Environmental Protection Agency Region 7
Superfund Division
11201 Renner Blvd.
Lenexa, Kansas 66219
(913) 551-7157
Sperry.clint@epa.gov

Candice McGhee, Project Manager
Missouri Department of Natural Resources
Hazardous Waste Program
P.O. Box 176
Jefferson City, Missouri 65102
573-751-1738
Candice.mcghee@dnr.mo.gov

(2) Respondent shall submit all deliverables in electronic form. Technical specifications for sampling and monitoring data and spatial data are addressed in Appendix B, Statement of Work. All other deliverables shall be submitted in the electronic means specified by EPA or MDNR. If any deliverable includes maps, drawings, or other exhibits that are larger than 8.5 by 11 inches, Respondent shall also provide EPA with paper copies of such exhibits.

b. Technical Specifications for Deliverables.

(1) Sampling and monitoring data should be submitted in standard regional Electronic Data Deliverable (EDD) format. The data should be compatible with EQUIS. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.

(2) Spatial data, including spatially-referenced data and geospatial data, should be submitted: (i) in the ESRI File Geodatabase format; and (ii) as un-projected geographic coordinates in decimal degree format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee (FGDC) Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor (EME), complies with these FGDC and EPA metadata requirements and is available at *https://edg.epa.gov/EME/*.

(3) Each file must include an attribute name for each site unit or sub-unit submitted. Consult *http://www.epa.gov/geospatial-policies-and standards* for any further available guidance on attribute identification and naming.

(4) Spatial data submitted by Respondent does not, and is not intended to, define the boundaries of the Site.

36. Approval of Deliverables

a. Initial Submissions

(1) After review of any deliverable that is required to be submitted for approval pursuant to this Settlement Agreement and after consultation with MDNR, EPA shall, in a written notice to Respondent: (i) approve, in whole or in part, the submission; (ii) approve the submission upon specified conditions; (iii) disapprove, in whole or in part, the submission; or (iv) any combination of the foregoing.

(2) EPA, after consultation with MDNR, also may modify the initial submission to cure deficiencies in the submission if: (i) EPA, after consultation with MDNR, determines that disapproving the submission and awaiting a resubmission would cause substantial disruption of the Work; or (ii) previous submission(s) has been disapproved due to a material defect(s) and the deficiencies in the initial submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

b. Resubmissions. Upon receipt of a notice of disapproval pursuant to **Paragraph 36.a(1)**, or if required by a notice of approval upon specified conditions under **Paragraph 36.a(1)**, Respondents shall, within thirty (30) days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the deliverable for approval. After review of the resubmitted deliverable, EPA, after consultation with MDNR, may: (1) approve, in whole or in part, the resubmission; (2) approve the resubmission upon specified conditions; (3) modify the resubmission; (4) disapprove, in whole or in part, the resubmission, requiring Respondent to correct the deficiencies; or (5) any combination of the foregoing.

c. Implementation. Upon approval, approval upon conditions, or modification by EPA, pursuant to **Paragraph 36.a or 36.b**, of any deliverable, or portion thereof: (i) such deliverable, or portion thereof, shall be incorporated into and enforceable under this Settlement Agreement; and (ii) Respondent shall take any action required by such

deliverable, or portion thereof. Implementation of any non-deficient portion of a submission shall not relieve Respondent of any liability for penalties under Section XX (Stipulated Penalties) for violations of this Settlement Agreement.

37. Notwithstanding the receipt of a notice of disapproval, Respondent shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA.

38. In the event EPA takes over some of the Work, but not the preparation of the Remedial Investigation Report ("RI Report") or the FS Report, Respondent shall incorporate and integrate information supplied by EPA into those reports.

39. Respondent shall not proceed with any activity or task dependent on the following deliverables until receiving EPA approval, approval on condition, or modification of such deliverables: RI/FS Work Plan; Sampling and Analysis Plan; RI Report; Treatability Testing Work Plan; Treatability Testing Sampling and Analysis Plan; Treatability Testing Health and Safety Plan; and FS Report. While awaiting EPA approval, approval on condition, or modification of these deliverables, Respondent shall proceed with all other tasks and activities that may be conducted independently of these deliverables, in accordance with the schedule set forth under this Settlement Agreement.

40. For all remaining deliverables not listed in **Paragraph 39**, Respondent shall proceed with all subsequent tasks, activities, and deliverables without awaiting EPA approval of the submitted deliverable. EPA, after consultation with MDNR, reserves the right to stop Respondent from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the performance of the Work.

41. Material Defects. If an initially submitted or resubmitted plan, report, or other deliverable contains a material defect, and the plan, report, or other deliverable is disapproved or modified by EPA under **Paragraph 36.a or Paragraph 36.b** due to such material defect, Respondent shall be deemed to be in violation of this Settlement Agreement for failure to submit such plan, report, or other deliverable in a timely and adequate manner. Respondent may be subject to penalties for such violations as provided in Section XX (Stipulated Penalties).

42. Neither failure of EPA to expressly approve or disapprove of Respondent's submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS

43. Respondent shall use quality assurance, quality control, and other technical activities and chain of custody procedures for all samples consistent with "EPA Requirements for Quality Assurance Project Plans (QA/R5)," EPA/240/B-01/003 (March 2001, reissued May 2006), "Guidance for Quality Assurance Project Plans (QA/G-5)," EPA/240/R-02/009 (December 2002), and "Uniform Federal Policy for Quality Assurance Project Plans, Parts 1-3, EPA/505/B-04/900A-900C (March 2005).

44. Laboratories

a. Respondent shall ensure that EPA and MDNR personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Respondent pursuant to this Settlement Agreement. In addition, Respondent shall ensure that each such laboratory will analyze all samples submitted by EPA and MDNR pursuant to the Quality Assurance Project Plan ("QAPP") for quality assurance, quality control, and technical activities that will satisfy the stated performance criteria as specified in the QAPP and that sampling and field activities are conducted in accordance with EPA's "Field Operations Group Operational Guidelines for Field Activities", available at *http://www.epa.gov/region8/qa/FieldOperationsGroupOperationalGuidelinesForFieldActivities.pdf* and "EPA QA Field Activities Procedure" CIO 2105-P-02.1 (9/23/2014), available at *https://www.epa.gov/irmpoli8/epa-qa-field-activities-procedures*. Respondent shall ensure that the laboratories it utilizes for the analysis of samples taken pursuant to this Settlement Agreement meet the competency requirements set forth in EPA's "Policy to Assure Competency of Laboratories, Field Sampling, and Other Organizations Generating Environmental Measurement Data under Agency-Funded Acquisitions," available at *https://www.epa.gov/measurements/documents-about-measurement-competency-under-acquisition-agreements*, and that the laboratories perform all analyses using EPA-accepted methods. Accepted EPA methods consist of, but are not limited to, methods that are documented in the EPA's Contract Laboratory Program, available at *https://www.epa.gov/superfund/programs/clp/*, SW 846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", available at *https://www.epa.gov/hw-sw846*, "Standard Methods for the Examination of Water and Wastewater", available at *http://www.standardmethods.org/*, and 40 C.F.R. Part 136, "Air Toxics - Monitoring Methods", available at *https://www.epa.gov/ttnamti1/airtox.html*.

b. Upon approval by EPA, Respondent may use other appropriate analytical methods, as long as:

(1) Quality assurance/quality control (QA/QC) criteria are contained in the methods and the methods are included in the QAPP;

(2) The analytical methods are at least as stringent as the methods listed above; and

(3) The methods have been approved for use by a nationally recognized organization responsible for verification and publication of analytical methods (e.g., EPA, ASTM, NIOSH, OSHA, etc.).

c. Respondent shall ensure that all laboratories it uses for analysis of samples taken pursuant to this Settlement Agreement have a documented Quality System that complies with ASQ/ANSI E4:2014 "Quality Management Systems for Environmental Information and Technology Programs – Requirements With Guidance for Use" (American Society for Quality, February 2014), and "EPA Requirements for Quality Management Plans (QA/R-2)" EPA/240/B-01/002 (March 2001, reissued May 2006), or equivalent documentation as determined by EPA. EPA may consider Environmental Response Laboratory Network (ERLN) laboratories, laboratories accredited under the National Environmental Laboratory Accreditation Program

(NELAP), or laboratories that meet International Standardization Organization (ISO 17025) standards or other nationally recognized programs as meeting the Quality System requirements.

d. Respondent shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Settlement are conducted in accordance with the procedures set forth in the approved QAPP.

45. Sampling

a. Upon request, Respondent shall provide split or duplicate samples to EPA and MDNR or their authorized representatives. Respondent shall notify EPA and MDNR not less than thirty (30) days in advance of any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA and MDNR shall have the right to take any additional samples that EPA or MDNR deem necessary. Upon request, EPA and MDNR shall provide to Respondent split or duplicate samples of any samples EPA or MDNR takes as part of EPA's or MDNR's oversight of Respondent's implementation of the Work, and any such samples shall be analyzed in accordance with the approved QAPP.

b. Respondent shall submit to EPA and MDNR, in the first periodic progress report following receipt of sampling results, as described in **Paragraph 34** of this Settlement Agreement, copies of the results of all sampling and/or tests or other data obtained or generated by or on behalf of Respondent with respect to the Site and/or the implementation of this Settlement Agreement.

c. In entering into this Settlement Agreement, Respondent waives any objection to any data gathered, generated, or evaluated by EPA, MDNR, or Respondent in the performance or oversight of the Work that has been verified according to the quality assurance/quality control (QA/QC) procedures required by the Settlement Agreement or any EPA-approved RI/FS Work Plans or Sampling and Analysis Plans. If Respondent objects to any other data relating to the RI/FS, Respondent shall submit to EPA and MDNR a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA and MDNR within fifteen (15) days after the date of submittal of the initial periodic progress report containing the data.

XII. PROPERTY REQUIREMENTS

46. Agreements Regarding Access and Non-Interference. Respondent shall, with respect to any property not owned by Respondent ("non-settler") that is necessary to implement the RI/FS, use best efforts to secure from the owner of such property an agreement, enforceable by Respondent and the United States, providing that such non-settler owner shall, and Respondent shall, with respect to its property: (i) provide Respondent and both EPA and MDNR, and their representatives, contractors, and subcontractors, with access at all reasonable times to the property to conduct any activity regarding this Settlement Agreement, including those activities listed in **Paragraph 46.a (Access Requirements) below**.

a. Access Requirements. The following is a list of activities for which access to both Respondent's property and property not owned by Respondent for which access is required pursuant to Paragraph 46 of this Settlement Agreement:

(1) Monitoring the Work;

(2) Verifying any data or information submitted to EPA or MDNR;

(3) Conducting investigations regarding contamination at or near the Site;

(4) Obtaining samples;

(5) Assessing the need for, planning, implementing, or monitoring response actions;

(6) Assessing implementation of quality assurance and quality control practices as defined in the approved QAPP;

(7) Implementing the Work pursuant to the conditions set forth in **Paragraph 87 (Work Takeover) of this Settlement Agreement;**

(8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondent or its agents, consistent with Section XIII (Access to Information);

(9) Assessing Respondent's compliance with this Settlement Agreement;

(10) Determining whether any property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Settlement Agreement; and

(11) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions regarding any affected property.

47. Best Efforts. As used in this Section, "best efforts" means the efforts that a reasonable person in the position of Respondent would use so as to achieve the goal in a timely manner, including the payment of reasonable sums of money to secure access as required by this Section. If Respondent is unable to accomplish what is required through "best efforts" in a timely manner, Respondent shall notify EPA and MDNR, and include a description of the steps taken to comply with the requirements to secure access. If EPA deems it appropriate, EPA may assist Respondent, or take independent action, in obtaining such access and/or use restrictions. All costs incurred by the United States in providing such assistance or taking such action, including the cost of attorney time or just compensation paid, constitute Future Response Costs to be reimbursed **under** Section XVII (Payment of Response Costs).

48. In the event of any transfer of its property, Respondent shall continue to comply with its obligations under this Settlement Agreement, including its obligation to secure access and ensure compliance with any land, water, or other resource use restrictions regarding the Respondent's property.

49. Notwithstanding any provision of this Settlement Agreement, EPA and MDNR retain all of their access authorities and rights, including enforcement authorities relating to this Settlement Agreement under CERCLA, RCRA, State law, and any other applicable statute or regulation.

XIII. ACCESS TO INFORMATION

50. Respondent shall provide to EPA and MDNR, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within the possession or control of Respondent or its contractors or agents relating to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Work.

51. Privileged and Protected Claims.

a. Respondent may assert all or part of a Record requested by EPA or MDNR is privileged or protected as provided under federal law, in lieu of providing the Record, provided Respondents comply with **Paragraph 51.b**, and except as provided in **Paragraph 51.c**.

b. If Respondent asserts such a privilege or protection, Respondent shall provide EPA with the following information regarding such Record:

(1) The title/subject matter and date;

(2) The name, title, affiliation (e.g., company or firm), and address of the author, of each addressee, and of each recipient;

(3) A description of the Record's contents;

(4) And the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Respondent shall provide the Record to EPA or MDNR in redacted form to mask the privileged or protected portion only. Respondent shall retain all Records that they claim to be privileged or protected until EPA or MDNR has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Respondent's favor.

c. Respondent may make no claim of privilege or protection regarding:

(1) Any data relating to the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeological, scientific, chemical, radiological, or

engineering data, or any portion of any other Record that evidences conditions at or around the Site; or

(2) Any portion of any Record that Respondent is required to create or generate pursuant to this Settlement Agreement.

52. Business Confidential Claims. Respondent may assert that all or part of a Record provided to EPA under this Section or Section XIV (Record Retention) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Respondent shall segregate and clearly identify all Records or parts thereof submitted under this Settlement Agreement for which Respondent asserts business confidentiality claims. Records submitted to EPA that are determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies a Record when it is submitted to EPA, or if EPA has notified Respondents that a Record is not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to that Record without further notice to Respondent.

53. Notwithstanding any provision of this Settlement Agreement, EPA and MDNR retain all of their information gathering and inspection authorities and rights, including enforcement actions relating to the Site and this Settlement Agreement, under CERCLA, RCRA, State law, and any other applicable statute or regulation.

XIV. RECORD RETENTION

54. Until ten (10) years after EPA provides Respondent with notice, pursuant to Section XXXI (Notice of Completion of Work), that all Work has been fully performed in accordance with this Settlement Agreement, Respondent shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in its possession or control, or that come into its possession or control, that relate in any manner to Respondent's liability under CERCLA with regard to the Site. Respondent must also retain, and instruct its contractors and agents to preserve, for the same period of time specified above, all non-identical copies of the last draft or final version of any Record (including Records in electronic form) now in its possession or control or that come into its possession or control that relate in any manner to the performance of the Work, provided, however, that Respondent (and its contractors and agents) must retain, in addition, copies of all data generated during the performance of the Work and not contained in the aforementioned Records required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

55. At the conclusion of the document retention period, Respondent shall notify EPA and MDNR at least ninety (90) days prior to the destruction of any such Records, and, upon request by EPA or MDNR, and except as provided in **Paragraph 51 (Privileged and Protected Claims) above**, Respondent shall deliver any such Records to EPA or MDNR.

56. Respondent certifies that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records

(other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA and that it has fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. COMPLIANCE WITH OTHER LAWS

57. Nothing in this Settlement Agreement shall limit Respondent's obligations to comply with the requirements of all applicable state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work), including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work that is not on-Site requires a federal or state permit or approval, Respondent shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. Respondent may seek relief under the provisions of Section XIX (Force Majeure) for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval and required for the Work, provided that Respondent has submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XVI. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

58. Emergency Response. If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the Site that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan. Respondent shall also immediately notify EPA's RPM or, in the event of his/her unavailability, the Regional Duty Officer at (913) 281-0991, of the incident or Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondent shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVII (Payment of Response Costs).

59. Release Reporting. Upon the occurrence of any event during the performance of the Work that Respondent is required to report pursuant to Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), or Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11004, Respondent shall immediately orally notify EPA's RPM or, in the event of his/her unavailability, the Regional Duty Officer at (913) 281-0991, and the National Response Center at (800) 424-8802, and the Missouri ESP Spill Line at (573) 634-2436. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of EPCRA, 42 U.S.C. § 11004.

60. For any event covered under this Section, Respondent shall submit a written report to EPA's RPM and MDNR's Project Coordinator within seven (7) days after the onset of such event, setting forth the action or event that occurred and the measures taken, and to be taken, to mitigate any release or threat of release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release or threat of release.

XVII. PAYMENT OF RESPONSE COSTS

61. Payments for Future Response Costs. Respondent shall pay to EPA all Future Response Costs not inconsistent with the NCP.

a. Periodic Bill. On a periodic basis, EPA will send Respondent a bill requiring payment that includes an Itemized Cost Summary Report, which includes direct and indirect costs incurred by EPA, its contractors, subcontractors, and the United States Department of Justice. Respondent shall make all payments within thirty (30) days after Respondent's receipt of each bill requiring payment, except as otherwise provided in **Paragraph 63 (Contesting Future Response Costs)**, and in the manner set forth below:

b. Respondent shall make payment to EPA by Fedwire Electronic Funds Transfer (EFT) to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

And shall reference Site/Spill ID Number 0795 and the EPA docket number of this Settlement Agreement.

c. At the time of payment, Respondent shall send notice and proof of that payment has been made to EPA's RPM, and to the EPA Cincinnati Finance Office by email at cinwd_acctsreceivable@epa.gov, or by mail to

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

Such notice shall reference Site/Spill ID Number 0795 and the EPA docket number for this Settlement Agreement.

d. Deposit of Future Response Costs Payments. The total amount to be paid by Respondent pursuant to the Periodic Bill shall be deposited by EPA in the Huster Road Substation Groundwater OU4 Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA

Hazardous Substance Superfund, provided, however, that EPA may deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund if, at the time the payment is received, EPA estimates that the Huster Road Substation Groundwater OU4 Site Special Account balance is sufficient to address currently anticipated future response actions to be conducted or financed by EPA at or in connection with the Site. Any decision by EPA to deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund for this or any other reason shall not be subject to challenge by Respondent pursuant to the dispute resolution provisions in Section XVIII of this Settlement Agreement or in any other forum.

e. Payment of Future Response Costs incurred by MDNR shall be paid in accordance with the Reimbursement Agreement – Oversight Costs for the Huster Substation Site, dated December 7, 2015 between MDNR and Ameren Missouri.

62. Interest. In the event that any payment for Future Response Costs is not made by the date required, Respondent shall pay Interest on the unpaid balance. The Interest shall accrue through the date of Respondent's payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent's failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties.

63. Contesting Future Response Costs. Respondent may initiate the procedures of Section XVIII (Dispute Resolution) regarding payment of any Future Response Costs if it determines that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if Respondent believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. To initiate such a dispute, Respondent shall submit a Notice of Dispute in writing to EPA's RPM within thirty (30) days after receipt of the bill. Any such Notice of Dispute shall specifically identify the contested Future Response Costs and the basis for objection. If Respondent submits a Notice of Dispute, Respondents shall within the thirty (30) day period, also as a requirement for initiating the dispute:

a. Pay all uncontested Future Response Costs to EPA in the manner described above; and

b. Establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation (FDIC) and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondent shall send to EPA's RPM a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. If EPA prevails in the dispute, within five (5) days after the resolution of the dispute, Respondent shall pay the sums due (with accrued interest) to EPA in the manner described above. If Respondent prevails concerning any aspect of the contested costs, Respondent shall pay that portion of the costs (plus associated accrued interest) for which it did not prevail to EPA in the manner described in the above-referenced Paragraph. Respondent shall be disbursed any balance of the escrow account. The dispute

resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVIII (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondent's obligation to reimburse EPA for its Future Response Costs.

XVIII. DISPUTE RESOLUTION

64. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

65. Informal Dispute Resolution. If Respondent objects to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, Respondent shall send EPA a written Notice of Dispute describing the objection(s) within thirty (30) days after Respondent initially becomes aware of such EPA action. EPA and Respondent shall have thirty (30) days from EPA's receipt of Respondent's Notice of Dispute to resolve the dispute through informal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement.

66. Formal Dispute Resolution. If the Parties are unable to reach an agreement within the Negotiation Period, Respondent shall, within twenty (20) days after the end of the Negotiation Period, submit a statement of Respondent's position to the EPA RPM. EPA may, within twenty (20) days thereafter, submit its statement of position to Respondent. Thereafter, an EPA management official at the Division Director level or higher will issue a written decision on the dispute and transmit that decision to Respondent. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

67. Except as provided in **Paragraph 63 (Contesting Future Response Costs)** or as agreed to by EPA, the invocation of formal dispute resolution procedures under this Section does not extend, postpone, or affect in any way any obligation of Respondent under this Settlement Agreement. Except as provided in Section XX (Stipulated Penalties) of this Settlement Agreement, stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Settlement Agreement. In the event that Respondent does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XX (Stipulated Penalties) herein.

XIX. FORCE MAJEURE

68. "Force Majeure" for purposes of this Settlement Agreement, is defined as any event arising from causes beyond the control of Respondent, of any entity controlled by Respondent, or of Respondent's contractors that delays or prevents the performance of any

obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. The requirement that Respondent exercises "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure:

a. As it is occurring; and

b. Following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the Work or increased cost of performance.

69. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, Respondent shall notify EPA's RPM orally or, in his or her absence, the alternate EPA RPM, or, in the event both of EPA's designated representatives are unavailable, the Director of the Superfund Division, EPA Region 7, and MDNR's Project Manager within seven (7) days of when Respondent first knew that the event might cause a delay. Within seven (7) days thereafter, Respondent shall provide in writing to EPA and MDNR an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health or welfare, or the environment. Respondent shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Respondent shall be deemed to know of any circumstance of which Respondent, any entity controlled by Respondent, or Respondent's contractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Respondent from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under this Settlement Agreement and whether Respondent has exercised its best efforts, EPA may, in its unreviewable discretion, excuse in writing Respondent's failure to submit timely or complete notices under this Paragraph.

70. If EPA, after consultation with MDNR, agrees that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Settlement Agreement that are affected by the force majeure will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. If EPA, after consultation with MDNR, does not agree that the delay or anticipated delay has been or will be caused by a force majeure, EPA will notify Respondents in writing of EPA's decision. If EPA, after consultation with MDNR, agrees that the delay is attributable to a force majeure, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

71. If Respondent elects to invoke the dispute resolution procedures set forth in Section XVIII (Dispute Resolution), it shall do so no later than fifteen (15) days after receipt of EPA's force majeure decision notice. In any such dispute resolution proceeding, Respondent

shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this Section. If Respondent carries this burden, the delay at issue shall be deemed not to be a violation by Respondent of the affected obligation of this Settlement Agreement identified to EPA.

72. The failure by EPA to timely complete any obligation under this Settlement Agreement is not a violation of this Settlement Agreement, provided, however, that if such failure prevents Respondent from meeting one or more deadlines under this Settlement Agreement, Respondent may seek relief under this Section.

XX. STIPULATED PENALTIES

73. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth below for failure to comply with the obligations specified below, unless excused under Section XIX (Force Majeure). "Comply" as used in the previous sentence includes compliance by Respondent with all applicable requirements of this Settlement Agreement, within the deadlines established under this Settlement Agreement.

74. Stipulated Penalty Amounts: Payments, Financial Assurance, Major Deliverables, and Other Milestones

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified below:

Penalty Per Violation Per Day	Period of Noncompliance
$ 500	1st through 14th day
$ 750	15th through 30th day
$ 1,000	31st day and beyond

b. Obligations:

(1) Payment of any amount due under Section XVII (Payment of Response Costs);

(2) Establishment and maintenance of financial assurance in accordance with Section XXIX (Financial Assurance);

(3) Establishment of an escrow account to hold any disputed Future Response Costs;

(4) Completion of RI/FS Work Plan;

(5) Completion of Remedial Investigation Report; and

(6) Completion of Feasibility Study Report.

(7) Stipulated Penalty Amounts – Other Deliverables. The following stipulated penalties shall accrue per violation per day for Respondent's failure to submit timely or adequate deliverables required by this Settlement Agreement, other than those specified above:

Penalty Per Violation Per Day	Period of Noncompliance
$ 750	1st through 14th day
$ 1,000	15th through 30th day
$ 1,500	31st day and beyond

75. In the event that EPA assumes performance of a portion or all of the Work pursuant to the Work Takeover provision below, Respondent shall be liable for a stipulated penalty in the amount of $100,000. Stipulated penalties under this Paragraph are in addition to the remedies available to EPA under this Settlement Agreement.

76. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. Penalties shall continue to accrue during any dispute resolution period, and shall be paid within fifteen (15) days after the date a dispute resolution agreement is signed by the Parties, or Respondent's receipt of EPA's dispute resolution decision. However, stipulated penalties shall not accrue:

a. With respect to a deficient submission under Section X (Submission and Approval of Deliverables), during the period, if any, beginning on the thirty-first (31st) day after EPA's receipt of such submission until the date Respondent receives an EPA notification of any deficiency; and

b. With respect to a decision by the EPA Management Official at the Division Director level or higher, under Section XVIII (Dispute Resolution), during the period, if any, beginning on the twenty-first (21st) day after the Negotiation Period begins until the date Respondent receives a final written decision regarding a dispute from the EPA Management Official. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

77. Following EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, EPA may give Respondent written notification of the failure and describe the noncompliance. EPA may send Respondent a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondent of a violation of this Settlement Agreement.

78. All penalties accruing under this Section shall be due and payable to EPA within thirty (30) days after Respondent's receipt of an EPA demand for payment of the penalties, unless Respondent invoke the Dispute Resolution procedures under Section XVIII (Dispute

Resolution). All payments to EPA under this Section shall indicate that the payment is for stipulated penalties and shall be made in accordance with and in the manner described in **Paragraph 61 (Payments for Future Response Costs).**

79. If Respondent fails to pay stipulated penalties when due, Respondent shall pay Interest on the unpaid stipulated penalties as follows:

a. If Respondent has timely invoked dispute resolution such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, Interest shall accrue from the date stipulated penalties are due until the date of payment; and

b. If Respondent fails to timely invoke dispute resolution, Interest shall accrue from the date of demand until the date of payment. If Respondent fails to pay stipulated penalties and Interest when due, the United States may institute proceedings to collect the penalties and Interest.

80. The payment of penalties and interest, if any, shall not alter in any way Respondent's obligation to complete performance of the Work required under this Settlement Agreement.

81. Nothing in this Settlement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedy or sanction available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(*l*) of CERCLA, 42 U.S.C. § 9622(*l*), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), provided however, that EPA shall not seek civil penalties pursuant to Section 122(*l*) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Settlement Agreement, except in the case of willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to this Settlement Agreement.

82. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XXI. COVENANTS BY EPA

83. Except as provided in Section XXIII (Reservations of Rights by EPA and MDNR), EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, and Future Response Costs. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Settlement Agreement. These covenants extend only to Respondent and do not extend to any other person.

XXII. COVENANTS BY MDNR

84. Except as provided in Section XXIII (Reservations of Rights by EPA and MDNR), MDNR covenants not to sue or take administrative action against Respondent pursuant to Sections 260.500 to 260.550 RSMo for the Work. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Settlement Agreement. These covenants extend only to Respondent and do not extend to any other person.

XXIII. RESERVATIONS OF RIGHTS BY EPA AND MDNR

85. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement shall limit the power and authority of EPA or the United States or MDNR to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing in this Settlement Agreement shall prevent EPA or MDNR from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

86. The covenant not to sue set forth in Sections XXI (Covenants by EPA) and XXII (Covenants by MDNR) above does not pertain to any matters other than those expressly identified therein. EPA and MDNR reserve, and this Settlement Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

a. Liability for failure by Respondent to meet a requirement of this Settlement Agreement;

b. Liability for costs not included within the definition of Future Response Costs;

c. Liability for performance of response action other than the Work;

d. Criminal liability;

e. Liability for violations of federal or state law that occur during or after implementation of the Work;

f. Liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

g. Liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and

h. Liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site not paid as Future Response Costs under this Settlement Agreement.

87. Work Takeover.

a. In the event EPA, in consultation with MDNR, determines that Respondent:

(1) Has ceased implementation of any portion of the Work;

(2) Is seriously or repeatedly deficient or late in the performance of the Work; or

(3) Is implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice (Work Takeover Notice) to Respondent. Any Work Takeover Notice issued by EPA (which writing may be electronic) will specify the grounds upon which such notice was issued and will provide Respondent a period of ten (10) days within which to remedy the circumstances giving rise to EPA's issuance of such notice.

b. If, after expiration of the ten (10) day notice period specified in above, Respondent has not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, EPA, after consultation with MDNR, may at any time thereafter assume the performance of all or any portion(s) of the Work as EPA deems necessary (Work Takeover). EPA will notify Respondent in writing (which writing may be electronic) if EPA determines that implementation of a Work Takeover is warranted under this Section. Funding of Work Takeover costs is addressed under **Paragraph 110 (Access to Financial Assurance)**.

c. Respondent may invoke the procedures set forth in Section XVIII (Dispute Resolution) to dispute EPA's implementation of a Work Takeover. However, notwithstanding Respondent's invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion commence and continue a Work Takeover until the earlier of:

(1) The date that Respondent remedies, to EPA's satisfaction, the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice; or

(2) The date that a written decision terminating such Work Takeover is rendered in accordance with the Formal Dispute Resolution provisions of this Settlement Agreement.

d. Notwithstanding any other provision of this Settlement Agreement, EPA and MDNR retain all authority and reserves all rights to take any and all response actions authorized by law.

XXIV. COVENANTS BY RESPONDENT

88. Respondent covenants not to sue and agrees not to assert any claims or causes of action against the United States, the State, or their contractors or employees, with respect to the Work, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund through Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim under Sections 107 and 113 of CERCLA, U.S.C. §§ 9607 and 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law regarding the Work, Future Response Costs, and this Settlement Agreement; or

c. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Missouri Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law.

89. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Section XXIII (Reservations of Rights by EPA and MDNR), other than in Paragraph 86.a (liability for failure to meet a requirement of the Settlement), 86.d (criminal liability), or 86.e (liability for violations of federal or state law), but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

90. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

91. Respondent reserves, and this Settlement is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the foregoing shall not include any claim based on EPA's selection of response actions, or the oversight or approval of Respondent's deliverables or activities under this Settlement Agreement.

XXV. OTHER CLAIMS

92. By issuance of this Settlement Agreement, the United States, EPA and the State of Missouri and MDNR assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA and the State of Missouri or MDNR shall not be deemed a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

93. Except as expressly provided in Section XXI (Covenants by EPA) of this Settlement Agreement, nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this

Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages, and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

94. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXVI. EFFECT OF SETTLEMENT/CONTRIBUTION

95. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section XXIV (Covenants by Respondent) herein, each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2) and (3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2) of CERCLA.

96. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Respondent has, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement. The "matters addressed" in this Settlement are the Work, and Future Response Costs.

97. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Respondent has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

98. Respondent shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify EPA in writing no later than sixty (60) days prior to the initiation of such suit or claim. Respondent also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within ten (10) days after service of the complaint or claim upon Respondent. In addition, Respondent shall notify EPA within ten (10) days after service or receipt of any Motion for Summary Judgment and within ten (10) days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

99. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Site, Respondent shall not assert, and may not maintain, any defense or

claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant by EPA or MDNR set forth in Section XXI (Covenants By EPA) or Section XXII (Covenants By MDNR) of this Settlement Agreement.

100. Effective upon signature of this Settlement Agreement by Respondent, Respondent agrees that the time period commencing on the date of its signature and ending on the date EPA receives from Respondent the payment(s) required and, if any, Section XX (Stipulated Penalties) above shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the "matters addressed" as defined in **Paragraph 96** of this Settlement Agreement and that, in any action brought by the United States related to the "matters addressed," Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Respondent that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing ninety (90) days after the date such notice is sent by EPA.

XXVII. INDEMNIFICATION

101. The United States and the State of Missouri do not assume any liability by entering into this Settlement Agreement or by virtue of any designation of Respondent as EPA's authorized representatives under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and 40 C.F.R. 300.400(d)(3). Respondent shall indemnify, save, and hold harmless the United States, its officials, agents, employees, contractors, subcontractors, and representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, or subcontractors, and any persons acting on Respondent's behalf or under its control, in carrying out activities pursuant to this Settlement Agreement. Further, Respondent agrees to pay the United States all costs the United States incurs, including but not limited to attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on Respondent's behalf or under its control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Respondent nor any such contractor shall be considered an agent of the United States.

102. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

103. Respondent covenants not to sue and agrees not to assert any claim or cause of action against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement,

or arrangement between Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

XXVIII. INSURANCE

104. No later than thirty (30) days before commencing any on-site Work, Respondent shall secure, and shall maintain until the first anniversary after issuance of Notice of Completion of Work pursuant to Section XXXI (Notice of Completion of Work), commercial general liability insurance with limits of liability of $1 million per occurrence, automobile insurance with limits of liability of $1 million per accident, and umbrella liability insurance with limits of liability of $5 million in excess of the required commercial general liability and automobile liability limits. In addition, for the duration of the Settlement Agreement, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy upon written request from EPA. For the duration of the Settlement Agreement, Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Settlement Agreement. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in a lesser amount, then, with respect to the contractor or subcontractor, Respondent needs provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor.

XXIX. FINANCIAL ASSURANCE

105. In order to ensure completion of the Work, Respondent shall secure financial assurance, initially in the amount of $100,000 ("Estimated Cost of the Work"), for the benefit of EPA. The financial assurance must be one or more of the mechanisms listed below, in a form substantially identical to the relevant sample documents available from EPA or under the "Financial Assurance - Settlements" category on the Cleanup Enforcement Model Language and Sample Documents Database at https://cfpub.epa.gov/compliance/models/, and satisfactory to EPA. Respondent may use multiple mechanisms if they are limited to surety bonds guaranteeing payment, letters of credit, trust funds, and/or insurance policies.

a. A surety bond guaranteeing payment and/or performance of the Work that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;

b. An irrevocable letter of credit, payable to or at the direction of EPA, that is issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;

c. A trust fund established for the benefit of EPA that is administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;

d. A policy of insurance that provides EPA with acceptable rights as a beneficiary thereof and that is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction(s) and whose insurance operations are regulated and examined by a federal or state agency;

e. A demonstration by Respondent that it meets the relevant financial test criteria of **Paragraphs 107& 108**, accompanied by a standby funding commitment, which obligates the Respondent to pay funds to or at the direction of EPA, up to the amount financially assured through the use of this demonstration in the event of a Work Takeover; or

f. A guarantee to fund or perform the Work executed in favor of EPA by a company:

(1) That is a direct or indirect parent company of Respondent or has a "substantial business relationship" (as defined in 40 C.F.R. § 264.141(h)) with Respondent; and

(2) Can demonstrate to EPA's satisfaction that it meets the financial test criteria below.

106. Within thirty (30) days after the Effective Date, or thirty (30) days after EPA's approval of the form and substance of Respondent's financial assurance, whichever is later, Respondent shall secure all executed and/or otherwise finalized mechanisms or other documents consistent with the EPA-approved form of financial assurance and shall submit such mechanisms and documents to the EPA RPM, and the EPA, Region7, Regional Financial Officer, 11201 Renner Boulevard, Lenexa, Kansas, 66219.

107. Respondent, seeking to provide financial assurance by means of a demonstration or guarantee shall, within thirty (30) days of the Effective Date:

a. Demonstrate that:

(1) Respondent or guarantor has:

(i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(ii) Net working capital and tangible net worth each at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

(iii) Tangible net worth of at least $10 million; and

(iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal or state obligations financially assured through the use of a financial test or guarantee; or

(2) The affected Respondent or guarantor has:

(i) A current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and

(ii) Tangible net worth at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

(iii) Tangible net worth of at least $10 million; and

(iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal or state obligations financially assured through the use of a financial test or guarantee; and

b. Submit to EPA for Respondent or the guarantor:

(1) A copy of an independent certified public accountant's report of the entity's financial statements for the latest completed fiscal year, which must not express an adverse opinion or disclaimer of opinion; and

(2) A letter from its chief financial officer and a report from an independent certified public accountant substantially identical to the sample letter and reports available from EPA or under the "Financial Assurance-Settlements" subject list category on the Cleanup Enforcement Model Language and Sample Documents Database at *https://cfpub.epa.gov/compliance/models/*.

108. Respondent providing financial assurance by means of a demonstration or guarantee must also:

a. Annually resubmit the documents described in **Paragraph 107.b** within ninety (90) days after the close of Respondent's or the guarantor's fiscal year;

b. Notify EPA within thirty (30) days after Respondent or the guarantor determines that it no longer satisfies the relevant financial test criteria and requirements set forth in this Section; and

c. Provide to EPA, within thirty (30) days of EPA's request, reports of the financial condition of Respondent or the guarantor in addition to those specified in **Paragraph 107.b**; EPA may make such a request at any time based on a belief that Respondent or the guarantor may no longer meet the financial test requirements of this Section.

109. Respondent shall diligently monitor the adequacy of the financial assurance. If Respondent becomes aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, Respondent shall notify EPA of such information within seven (7) days. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify Respondent of such determination. Respondent shall, within thirty (30) days after notifying EPA or receiving notice from EPA under this Paragraph, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. EPA may extend this deadline for such time as is reasonably necessary for the affected Respondent, in the exercise of due diligence, to secure and submit to EPA a proposal for a revised or alternative financial assurance mechanism, not to exceed sixth (60) days. Respondent shall follow the procedures of **Paragraph 111 (Modification of Amount, Form, or Terms of Financial Assurance)** in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Respondent's inability to secure and submit to EPA financial assurance in accordance with this Section shall in no way excuse performance of any other requirements of this Settlement Agreement.

110. Access to Financial Assurance.

a. If EPA issues a notice of implementation of a Work Takeover then, in accordance with any applicable financial assurance mechanism, EPA is entitled to:

(1) The performance of the Work; and/or

(2) Require that any funds guaranteed be paid in accordance with this Paragraph.

b. If EPA is notified by the issuer of a financial assurance mechanism that it intends to cancel such mechanism, and Respondent fails to provide an alternative financial assurance mechanism in accordance with this Section at least thirty (30) days prior to the cancellation date, the funds guaranteed under such mechanism must be paid prior to cancellation as set forth below.

c. If, upon issuance of a notice of implementation of a Work Takeover under **Paragraph 87.b**, either:

(1) EPA is unable for any reason to promptly secure the resources guaranteed under any applicable financial assurance mechanism, whether in cash or in kind, to continue and complete the Work; or

(2) The financial assurance is a demonstration or guarantee under **Paragraph 105.e or 105.f above**, then EPA is entitled to demand an amount, as determined by EPA, sufficient to cover the cost of the remaining Work to be performed. Respondent shall, within thirty (30) days of such demand, pay the amount demanded as directed by EPA.

d. Any amounts required to be paid under this Paragraph shall be, as directed by EPA:

(1) Paid to EPA in order to facilitate the completion of the Work by EPA or by another person; or

(2) Deposited into an interest-bearing account, established at a duly chartered bank or trust company that is insured by the FDIC, in order to facilitate the completion of the Work by another person. If payment is made to EPA, EPA may deposit the payment into the EPA Hazardous Substance Superfund or into the Findett/Huster Road Substation OU4 Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

e. All EPA Work Takeover costs not paid under this Paragraph must be reimbursed as Future Response Costs under Section XVII (Payment of Response Costs).

111. Modification of Amount, Form, or Terms of Financial Assurance. Respondent may submit, on any anniversary of the Effective Date or at any other time agreed to by the Parties, a request to reduce the amount, or change the form or terms, of the financial assurance mechanism. Any such request must be submitted to EPA in accordance with **Paragraph 106** above, and must include an estimate of the cost of the remaining Work, an explanation of the bases for the cost calculation, and a description of the proposed changes, if any, to the form or terms of the financial assurance. EPA will notify Respondent of its decision to approve or disapprove a requested reduction or change pursuant to this Paragraph. Respondent may reduce the amount of the financial assurance mechanism only in accordance with:

(1) EPA's approval; or

(2) If there is a dispute, the agreement or written decision resolving such dispute under Section XVIII (Dispute Resolution). Respondent may change the form or terms of the financial assurance mechanism only in accordance with EPA's approval. Any decision made by EPA on a request submitted under this Paragraph to change the form or terms of a financial assurance mechanism shall not be subject to challenge by Respondent pursuant to the dispute resolution provisions of this Settlement Agreement or in any other form. Within thirty (30) days after receipt of EPA's approval of, or the agreement or decision resolving a dispute relating to, the requested modifications pursuant to this Paragraph, Respondent shall submit to EPA documentation of the reduced, revised, or alternative financial assurance mechanism in accordance with **Paragraph 106 above**.

112. Release, Cancellation, or Discontinuation of Financial Assurance. Respondent may release, cancel, or discontinue any financial assurance provided under this Section only:

(1) If EPA issues a Notice of Completion of Work under Section XXXI (Notice of Completion of Work);

(2) In accordance with EPA's approval of such release, cancellation, or discontinuation; or

(3) If there is a dispute regarding the release, cancellation or discontinuance of any financial assurance, in accordance with the agreement or final decision resolving such dispute under to Section XVIII (Dispute Resolution).

XXX. MODIFICATION

113. EPA's RPM, after consultation with MDNR, may modify any plan or schedule or the SOW in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of EPA's RPM's oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the parties.

114. If Respondent seeks permission to deviate from any approved work plan or schedule or the SOW, Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from EPA's RPM as set forth **above**.

115. No informal advice, guidance, suggestion, or comment by EPA's RPM or other EPA representatives regarding any deliverable submitted by Respondent shall relieve Respondents of its obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXXI. NOTICE OF COMPLETION OF WORK

116. Upon completion of the Work required by this Settlement Agreement, Respondent shall request a Notice of Completion of Work from EPA. When EPA, after consultation with MDNR, determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including payment of Future Response Costs and record retention, EPA will provide written notice to Respondent. If EPA, after consultation with MDNR, determines that such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the RI/FS Work Plan, if appropriate, in order to correct such deficiencies. Respondent shall implement the modified and approved RI/FS Work Plan and shall submit a modified RI Report and/or FS Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified RI/FS Work Plan shall be a violation of this Settlement Agreement.

XXXII. INTEGRATION/APPENDICES

117. This Settlement Agreement and its appendices constitute the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

a. "Appendix A" is the description and/or map of the Site.

b. "Appendix B" is the SOW.

XXXIII. ADMINISTRATIVE RECORD

118. EPA will determine the contents of the administrative record file for selection of the appropriate response action(s). Respondent shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action(s) may be based. Upon request of EPA, Respondent shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports, and other reports. Upon request of EPA, Respondent shall additionally submit any previous studies conducted under state, local, or other federal authorities that may relate to selection of the appropriate response action(s), and all communications between Respondent and state, local, or other federal authorities that may relate to selection of the response action(s).

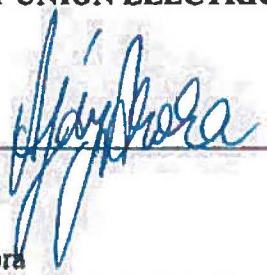
XXXIV. EFFECTIVE DATE

119. The Effective Date of this Settlement Agreement shall be the date Respondent receives (by mail or by email, whichever is earlier) a fully executed copy of this Settlement Agreement.

The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement and to bind the parties they represent to this document.

Agreed this 21st day of December, 2017.

FOR RESPONDENT UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI

By 

Name Ajay K. Arora

Title Vice President, Environmental Services
as agent for Union Electric Company

It is so ORDERED AND AGREED this_____day of_____, 2017

FOR THE STATE OF MISSOURI, MISSOURI DEPARTMENT OF NATURAL RESOURCES

BY: _____ DATE: 12.27, 2017

John D. Jurgensmeyer
Director, Division of Environmental Quality
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

It is so ORDERED AND AGREED this 2nd day of January, 2018.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

BY: Mary P. Peterson DATE: Jan 2, 2018

Mary P. Peterson
Director
Superfund Division
U.S. Environmental Protection Agency Region 7

BY: L Huston DATE: 12/21, 2017

Elizabeth Huston
Senior Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency Region 7